

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V. P. MOHAN KUMAR

WRIT PETITION NO. 28422 OF 1996

BETWEEN :

The Karnataka State Road
Transport Corporation,
represented by its
Divisional Controller,
Bijapur Division,
BIJAPUR

107

.. PETITIONER

(Sri N.D.R. Ramachandra Rao, Advocate)

A N D :

1. M. Bheemanna,
S/o Narasappa Maski,
Lingasagur Taluka
District : Raichur
2. The Presiding Officer,
Labour Court,
BIJAPUR

.. RESPONDENTS

(Sri R.B. Annappanavar, for R - 1
Sri T.P. Nambiar A.G.A. for R - 2)

Writ Petition filed under Article 226 & 227 of the Constitution of India, praying to; issue a writ of certiorari or any other appropriate writ or direction or order and quash the impugned award dated 6th January, 1996 passed by the Labour Court, Bijapur, the second respondent herein, in ref. No. 451/1995 (Old Nos. KID.1195/88, 563/93) as per ANNEXURE-'A', etc.

This Writ Petition coming on for Preliminary hearing in "B" group, this day, the Court made the following :

O R D E R

The Corporation challenges Annexure-A award. The worker in question was proceeded against on the following charges:

i) He had failed to get the dispatch from Traffic Controller on duty at Bagalkot Stand.

ii) He failed to record the total No. of passengers boarded in the bus in the way-bill and failed to enter the opening number of denominations of Rs.0.20, 00.30, 00.50, 1.00, 1.50 and 2.00, till the bus came to be checked.


iii) Failed to issue 3 tickets of Rs.1.00 ea. to 3 passengers travelling from Bagalkot to Bennur, despite collection of fare from the said passengers at their boarding place itself.

iv) Failed to issue 10 tickets of Rs.1.50 to the passenger bound to Shiraguppi from Bagalkot despite collection of Rs.15.00 from them.

v) On sighting the Inspectors he tried to issue tickets of Rs.1.00 to 10 passengers (bearing T.Nos.92690 to 92699) with light punch from stage No.1 to 4.

vi) He instigated the passengers and the Inspectors were unable to record the passengers statement on the spot.

vii) Non-co-operated with Checking Inspectors; Refused to accept the Offence Memo on the spot and even before the Depot Manager, Bagalkot,



produced the documents and on 28-5-94 as the advocate for the respondent was absent the Presiding Officer, Additional Labour Court, Hubli, has heard the advocate for the claimant and on 27-6-1994 he has passed order on Issue No.1 on merits discussing the documents produced by the claimant and answering Issue No.1 in the negative. And thereafter on 30-10-94 the order for interim relief was passed. On 5-12-94 the case is being adjourned for evidence. Further after transfer of this file to this Court several chances were given to adduce evidence to the Respondent and ultimately on 13-12-95 Sri.A.A.Patil, advocate filed wakalath for the Respondent with the leave of the Court and filed an application seeking permission to file the written statement with documents and to adduce evidence on merits...."

In these circumstances, the Labour Court had no other alternative but to hear the case as if no evidence is led by the Management to sustain the charges. After considering the case, it set aside the order of dismissal and called upon the Management to reinstate the worker with 50% backwages, continuity of service and consequential benefits. This award is challenged by the Corporation in these proceedings.

2. When the matter came up before this Court for preliminary hearing, this Court passed an interim order staying the recovery of backwages subject to the condition that the

h

worker being reinstated by 11-11-1996. This was made on 9-10-1996. The learned counsel for the Corporation is not in a position to say whether the order is complied with and whether the worker has been reinstated. It is seen that the Corporation has communicated this order only on 9-12-1996 to be complied with which is nearly after one month of the date of compliance.

3. The learned counsel for the petitioner submitted that he was not permitted to file the written statement. I do not know as to what is the basis of the submission. There are no records to show that any attempt was made to file a written statement. It is also not shown that the Corporation had made any appearance in the Court to contest the case. From the negligent conduct of the Corporation, it is seen that great prejudice is caused to the worker. Therefore, a remand of the matter will cause serious prejudice to the worker. This course of action could have been accepted had the worker been reinstated. Even this has not been done by the Corporation. When once the domestic enquiry is set aside, it means the Management has to prove the charges framed against the worker, otherwise, as if the

W

charges are not proved. In this case no steps have been taken by the Corporation to prove the charges. The worker was dismissed without any basis. The award of the Labour Court does not call for any interference. The Writ Petition is dismissed.

Sd/-
JUDGE

Pkc.

